

46 Am. Jur. 2d Judges § 13

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Judges

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IV. Termination or Suspension of Office; Censure

A. Termination, Resignation, or Retirement

§ 13. Termination of judge's office, generally

[Topic Summary](#) | [Correlation Table](#) | [References](#)

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Forms

Forms relating to termination, resignation or retirement, generally, see Am. Jur. Legal Forms 2d, Judges [[Westlaw®\(r\) Search Query](#)]

The term of a judge may be terminated, or the judge may cease to hold office, among other ways, by resignation, expiration of the term of office,¹ reaching the age of mandatory retirement as specified by statute or constitutional provision,² or the acceptance of an incompatible office.³ Some jurisdictions also provide for the recall of judges by the electorate.⁴

A judge may cease to hold office by resigning.⁵ There is authority supporting the view that a judge does not have the absolute right at the judge's own pleasure to abandon duties and resign the office, that an acceptance of a resignation, or its equivalent, may be necessary to perfect it, and that when an acceptance specifies the time at which it will take effect, until such time the resignation is not complete.⁶ Once a judge's resignation is written, signed, and delivered to the appropriate authority, that authority has no discretion but to accept the resignation.⁷ There is authority for the view that the resignation of a county judge, submitted to the governor to become operative on a specified date, may become operative on that date, even though, before that date and before the governor has acted on it, the judge attempts to withdraw the resignation.⁸ A judge may still continue to serve on a court from which the judge has resigned until the effective date of the resignation, even though the judge has taken an oath of office to be judge of another court a few days prior to the beginning of that term.⁹ A trial judge who conducted an evidentiary

hearing on a divorcing wife's motion for temporary alimony had no authority to sign an order awarding temporary alimony, and thus the temporary alimony order signed by the judge was void and of no legal effect, where the order was signed after the effective date of the judge's resignation from the bench.¹⁰ A judge's voluntary retirement is sufficient to render misconduct charges and related issues moot, warranting dismissal of a complaint.¹¹ On the other hand, the retired status of a judge does not deprive the Judicial Qualifications Commission of its jurisdiction so long as a complaint is filed within one year after retirement,¹² and does not deprive a state supreme court of disciplinary jurisdiction.¹³

Statutes may provide for the resignation or retirement of judges under certain conditions; for example, Congress has made such a provision in the case of federal judges.¹⁴

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Footnotes

- 1 Todd v. Bradley, 97 Conn. 563, 117 A. 808, 25 A.L.R. 22 (1922).
- 2 § 14.
- 3 §§ 43, 44.
- 4 Am. Jur. 2d, Public Officers and Employees §§ 200 to 212.
- 5 Todd v. Bradley, 97 Conn. 563, 117 A. 808, 25 A.L.R. 22 (1922).
- 6 In re Dempsey, 101 Ill. Dec. 58, 498 N.E.2d 240 (Ill. 1986).
- 7 Texas Democratic Executive Committee v. Rains, 756 S.W.2d 306 (Tex. 1988).
- 8 People ex rel. Adamowski v. Kerner, 19 Ill. 2d 506, 167 N.E.2d 555, 82 A.L.R.2d 740 (1960).
- 9 Carey Canada, Inc. v. Hinely, 181 Ga. App. 364, 352 S.E.2d 398 (1986), judgment rev'd on other grounds, 257 Ga. 150, 356 S.E.2d 202 (1987).
- 10 Triola v. Triola, 299 Ga. 220, 787 S.E.2d 206 (2016).
- 11 In re Charge of Judicial Misconduct, 91 F.3d 90 (9th Cir. Jud. Council 1996).
- 12 In re Downey, 937 So. 2d 643 (Fla. 2006).
- 13 In re Downey, 937 So. 2d 643 (Fla. 2006).
- 14 Am. Jur. 2d, Federal Courts §§ 103 to 109.

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